

June 22, 1999

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPEAL OF KING COUNTY CODE VIOLATION

SUBJECT: Department of Development and Environmental Services File No. **E9701137**

CANDIDO B. GAVINO
Code Enforcement Appeal

Location: 11804 – 79th Avenue South, Seattle, Washington 98178-3818

Appellant: Candido B. Gavino
11804 – 79th Avenue South
Seattle, Washington 98178-3818

Department: Jeri Breazeal, DDES, Code Enforcement Section
900 Oakesdale Avenue SW, Renton, WA 98055
Telephone: (206) 296-7264 Facsimile: (206) 296-6604

SUMMARY OF RECOMMENDATIONS & DECISION:

Department's Preliminary Recommendation:	Deny the appeal
Department's Final Recommendation:	Deny the appeal
Examiner's Decision:	Deny the appeal

PRELIMINARY MATTERS:

Notice of appeal received by Examiner:	March 11, 1999
Statement of appeal received by Examiner:	March 11, 1999

EXAMINER PROCEEDINGS:

Pre-Hearing Conference:	May 11, 1999
Hearing Opened:	June 11, 1999

Hearing Closed:

June 11, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Code violations

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On January 29, 1999 the King County Department of Development and Environmental Services issued a Notice and Order to Candido B. Gavino, Jr., 11804 – 79th Avenue South, Seattle, Washington 98178, citing his property for code enforcement violations. These included the accumulation of inoperable vehicles, junk and debris on the site; parking or storage of vehicles on unimproved surfaces; and unapproved construction on the property beyond the scope of building permit B98B0017. The Notice and Order contains a schedule for the penalties assessed against the property to progressively increase for continued uncorrected violations, which schedule results in a total of \$5,300 in penalties accruing for noncompliance after March 15, 1999.
2. Mr. Gavino filed a timely appeal of the Notice and Order. His statement expresses primarily a desire for more time to effect compliance with the Notice and Order and a wish to be relieved from the penalty assessments. A pre-hearing conference was issued on May 14, 1999 that defines the issues on appeal and stays the collection and accrual of penalties during the pendency of this proceeding.
3. At the public hearing held on this appeal on June 11, 1999, Code Enforcement staff member Jeri Breazeal offered testimony and photographs describing the site based on her site visits conducted since early January 1999. The photographs show automobiles overgrown with vines and bushes, debris in the front part of the property, minimal impervious parking surfaces, and a set of exposed roof tresses located behind a partially completed arbor. The evidence presented by Ms. Breazeal is sufficient to sustain the Notice and Order and was not contested by the Appellant.
4. Discussion between the Appellant and County staff resulted in agreement as to forthcoming deadlines for completion of the work necessary to bring the property into compliance with the Notice and Order. The Appellant needs to clearly understand that the penalties currently in abeyance may be reinstituted in full if all the deadlines established by the attached conditions are not met.

CONCLUSIONS:

1. The uncontested evidence of record demonstrates that the provisions of Titles 16, 21A and 23 of the King County Code and the sections of the Uniform Building and Housing Codes cited in the January 29, 1999 Notice and Order have been violated as alleged. Issuance of the Notice and Order is accordingly upheld.

DECISION:

The appeal of Candido B. Gavino, Jr. is DENIED.

ORDER:

Condition No. 1. No penalty shall be assessed against the Appellant's property under the January 29, 1999 Notice and Order if both the following actions have been taken by July 31, 1999:

- A. The debris and inoperable vehicles on the site have been removed, as approved by DDES.
- B. Either the existing building permit for the canopy addition has been renewed or a new building permit issued for residential renovation.

Condition No. 2. A deadline shall be mutually agreed upon between DDES and the Appellant for submission of a building permit revision to include the recent construction behind the arbor not covered by the permit; provided that, if no agreement has been reached by July 31, 1999, the deadline for revision submittal shall be September 30, 1999.

ORDERED this 22nd day of June, 1999.

Stafford L. Smith
Deputy Hearing Examiner

TRANSMITTED this 22nd day of June, 1999 to the parties and interested persons shown below:

Candido B. Gavino
11804 – 79th Avenue South
Seattle, Washington 98178-3818

Jeri Breazeal, DDES, Code Enforcement Section
Elizabeth Deraitus, DDES, Code Enforcement Section
Bill Turner, DDES, Code Enforcement Section

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date of issuance as three days after a written decision is mailed.)

MINUTES OF THE JUNE 11, 1999 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES FILE NO. E9701137 - GAVINO:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Candido Gavino, Jeri Breazeal, and Bill Turner.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services staff report to Hearing Examiner, dated June 11, 1999
- Exhibit No. 2 Copy of Notice and Order issued, dated January 29, 1999
- Exhibit No. 3 Copy of Appeal received, dated February 24, 1999
- Exhibit No. 4 Copy of letter from Brenda Wood to Candido B. Gavino, Jr., dated April 21, 1999
- Exhibit No. 5 Copies of code sections
- Exhibit No. 6 Color and black and white copies of photographs of subject property, dated June 1, 1999
- Exhibit No. 7 Copy of approved plans for permit B98B0017

SLS:vam/cp
E97/E9701137 rpt